

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NORBERT STURDEVANT,

Petitioner,

v.

Case No. 12-C-596

STATE OF WISCONSIN,

Respondent.

ORDER DISMISSING CASE

On June 11, 2012, Norbert Sturdevant, a federal inmate with a history of frivolous filings, filed a pro se “Petition for Writ of Habeas Corpus” alleging the trial judge who presided over one of his older state court convictions erred and there was ineffective assistance of counsel. (ECF No. 1.) Sturdevant has already filed a § 2255 motion challenging his federal conviction in this court, which was denied, and a petition seeking a writ of coram nobis, which was also denied.¹ Sturdevant was ordered to pay sanctions in that case and was told that failure to do so would result in an injunction against all future filings, excluding those seeking habeas relief. Sturdevant failed to pay the sanction in the case.

But despite the fact that Sturdevant has now titled his petition as one for habeas corpus, he is not currently in custody as a result of the convictions on which his petition is based. Sturdevant was found guilty of first degree sexual assault in 1984 and was sentenced to two concurrent fifteen

¹ See 11-CV-837, *Sturdevant v. United States of America*.

year terms. That sentence has been served to completion. Sturdevant instead argues that he has “lingering disabilities” as a result of the underlying conviction and sentence and that these disabilities are in violation of the Constitution. (ECF No. 1 at 1.) This claim is actually one for the writ of coram nobis. Regardless of the caption the inmate places on his motion (habeas corpus, coram nobis, civil rights, etc.) it is the substance of the relief sought that counts. *See Melton v. United States*, 359 F.3d 855, 857 (7th Cir. 2004) (“Call it a motion for a new trial, arrest of judgment, mandamus, prohibition, coram nobis . . . the name makes no difference. It is substance that controls.”) As such, Sturdevant is barred from submitting his petition for coram nobis, as he has been enjoined from non-habeas filings with this court.

Sturdevant has also filed a Motion to Proceed In Forma Pauperis (ECF No. 2), a Motion to Appoint Counsel (ECF No. 4) and a request to schedule an evidentiary hearing (ECF No. 5.) Given the lack of merit in the case, as discussed above, the motions and request will be DENIED.

In sum, the petition is DENIED and the case is DISMISSED.

SO ORDERED this 13th day of June, 2012.

s/ William C. Griesbach
William C. Griesbach
United States District Judge